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WHAT AN IOWA LAYMAN SHOULD KNOW ABOUT COURTS AND LAW

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Our schools assume to prepare the individual for citizenship by informing him concerning the relationships which are established by citizenship. There is, however, a general feeling of disappointment in the case of the civics courses commonly offered in the high school because they do not give the student information in regard to those legal aspects of citizenship which may affect him directly as an adult citizen. In view of the criticism to which these courses have been subjected, the investigation here reported was undertaken to determine what an ordinary layman of an Iowa community should know about the courts and law. As a basis of judgment concerning the legal facts with which the citizen should be familiar, it was decided to examine the causes which bring the layman in contact with the courts and law and, by an analysis of such causes, to determine what knowledge of courts and law is of value to him. Accordingly, a study was made of the various causes of litigation as found on the appearance docket and in the original petitions filed in the office of the clerk of the District Court of Johnson County, Iowa, for the years 1907, 1908, and 1909. It was the original plan to make an enumeration of the more recent records, but as the investigation proceeded it was found that these records were so much in demand by attorneys, real estate men, etc., that the years 1907, 1908, and 1909 were chosen instead.

In compiling the data, the classification as given on the appearance docket was not taken as final, but the entire petition was read for the purpose of ascertaining the original or underlying cause which brought the individual into court. For example, case No. 15416 is a case in which the plaintiff loaned the defendant a certain sum of money and took from him his promissory note. The defend-

ant failed to pay, and the plaintiff brought action, praying judgment, and asking the court for a writ of attachment. This was listed as a promissory note case involving the violation of a written contract, for it was the defendant's failure to pay this note which was the original cause for his being brought into court.

Table I shows the causes of action in 758 cases which were brought into the District Court within a period of three years.

TABLE I
THE NUMBER OF CASES OF EACH TYPE EXAMINED

| | |
|--|----------|
| 1. Written contracts..... | 199 |
| 2. Quieting titles..... | 190 |
| 3. Divorce cases..... | 79 |
| 4. Damage cases..... | 65 |
| 5. Implied contracts..... | 50 |
| 6. Oral contracts..... | 46 |
| 7. Suing for an undivided interest in an estate..... | 34 |
| 8. Injunction..... | 30 |
| 9. Writs not otherwise mentioned..... | 11 |
| 10. Garnishments..... | 10 |
| 11. Cases asking for writs of replevin..... | 8 |
| 12. Attempt to break or set aside wills..... | 8 |
| 13. Slander..... | 7 |
| 14. Writs of attachment..... | 3 |
| 15. Appeal from boards of review or council on assessment..... | 3 |
| 16. Habeas corpus..... | 3 |
| 17. Naturalization..... | 2 |
| 18. Partnership cases..... | 2 |
| 19. Bastardy..... | 1 |
| 20. Tax case..... | 1 |
| 21. Appeal bond..... | 1 |
| 22. Alimony..... | 1 |
| 23. Contempt of court..... | 1 |
| 24. Deeds..... | 1 |
| 25. Assault and battery..... | 1 |
| 26. To incorporate a town..... | <u>1</u> |
| Total..... | 758 |

After all of the petitions had been read and classified, the last one hundred cases were reclassified to determine more definitely the causes that brought the layman into court and what remedies he sought.

TABLE II

CLASSIFICATION OF ONE HUNDRED CASES ON THE BASIS OF THE GENERAL PRINCIPLE OF LAW INVOLVED

I. INSTRUMENTS INVOLVING THE PRINCIPLES OF CONTRACTS

| | |
|---|-----|
| 1. Promissory notes..... | 103 |
| 2. Implied contracts..... | 40 |
| 3. Written contracts..... | 35 |
| 4. Oral contracts..... | 20 |
| 5. Mortgages..... | 16 |
| 6. Leases..... | 15 |
| 7. Wills..... | 12 |
| 8. Land contracts..... | 10 |
| 9. Contracts by letters..... | 10 |
| 10. Assigned written contracts..... | 8 |
| 11. Power to collect attorney's fees..... | 5 |
| 12. Partnership..... | 5 |
| 13. Bonds..... | 5 |
| 14. Common carrier..... | 5 |
| 15. Quitclaim deeds..... | 5 |
| Total..... | 294 |

II. INSTRUMENTS INVOLVING WRITS OR DECREES FROM THE COURT

| | |
|-------------------------------------|-----|
| 1. Quieting titles..... | 85 |
| 2. Writ of attachment..... | 73 |
| 3. Decree of divorce..... | 25 |
| 4. Writ of injunction..... | 23 |
| 5. Estates..... | 10 |
| 6. Referee..... | 9 |
| 7. Vendor's lien..... | 7 |
| 8. Writ of replevin..... | 5 |
| 9. Naturalization..... | 5 |
| 10. Writ to incorporate a town..... | 5 |
| 11. Writ of mandamus..... | 5 |
| 12. Writ of detinue..... | 5 |
| 13. Landlord's lien..... | 4 |
| 14. Guardianship..... | 1 |
| Total..... | 262 |

III. DAMAGE CASES INVOLVING THE PRINCIPLES OF TORTS

| | |
|----------------------------------|-----|
| 1. Slander..... | 5 |
| 2. Assault and battery..... | 5 |
| 3. Trespass..... | 5 |
| 4. Railroad damage case..... | 5 |
| 5. Employer's liability act..... | 5 |
| 6. Interstate commerce..... | 3 |
| Total..... | 28 |
| Grand total..... | 584 |

In order to do this, a weighting system was arbitrarily decided upon, in which the most important cause was given a weight of five and others such as those involving court writs were weighted from four to one in the order of their importance. The result of this second tabulation is shown in Table II. Out of 584 points, the promissory notes received the greatest number, 103; quieting titles was second with 85 points; and writs of attachment came third with 73. Reclassifying these under contracts, court writs, and damage cases, it is found that 50.3 per cent of all cases for these three years had to do with contracts; 44.8 per cent with court writs, and 4.8 per cent with damage claims.

In order to check the weighted method the one hundred cases listed in Table II were classified again without being weighted. There was a difference between the results obtained by the two methods of 1.7 per cent in contracts, 6.6 per cent in court writs, and 5.3 per cent in damage cases.

Of the 535 petitions examined, 22, or 4.1 per cent, were brought up from the Justice Court; 35, or 6.5 per cent, were appealed to the state Supreme Court; and 3, or less than 1 per cent, to the United States District Court.

Another question with which the layman is confronted when he comes into court is the cost if his case is brought to trial. The court records for these three years show an average cost (attorney's fees omitted) of \$29.34 for cases settled in court and an average cost of \$12.83 for those settled out of court but after notice had been served.

CONCLUSIONS

1. *The courts.*—No conclusions can be drawn in regard to the importance of the Justice Court, since it is impossible to ascertain how many cases were tried in this court without being appealed to the District Court.

As the state Supreme Court is not a court of original jurisdiction, it follows that, before any layman in Johnson County can be brought into contact with this court, he must lay his cause before the District Court. Since only 35 out of 758 cases were appealed, the average citizen of Johnson County has twenty-one chances of

being brought into contact with the District Court to but one chance of being brought into contact with the state Supreme Court.

2. *The law.*—The kind and the amount of law that the layman needs to know are entirely different from the kind and amount needed by the practicing attorney. The attorney from the standpoint of his profession should be familiar with that type of law which will assist him in advising his client or in winning a case before the bar, but the layman needs to know only the general principles of law, the ignorance of which will cause him loss of time and money or bring him into the courts. Table I shows that the outstanding cause which brought the layman into court was the violation of written contracts, and Table II, in which the weighted system was used, also places written contracts first in the form of promissory notes. If in Table I all those with a score of ten or above are considered important, the subjects about which the layman should understand the general principles of law are: written contracts, quieting of titles, divorce, damage cases, implied contracts, oral contracts, settling estates, and court writs.

In checking this type of law against the material found in twenty textbooks in civics, we find little similarity. Instead of presenting some fundamental principles that will help the layman more clearly to understand contracts, attachments, etc., the textbooks consider such topics as how laws are made, federal laws, state laws, international laws, constitutional laws, etc. It is not the purpose of this study to determine the relative value of the legal facts set forth in this study and those usually found in civics textbooks, but to show that the needs of the average layman are concerned rather with that type of law with which he comes in contact in his everyday life.